

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-203—sHB 6461

Housing Committee

Planning and Development Committee

**AN ACT CONCERNING THE SELECTION OF TENANT
COMMISSIONERS**

SUMMARY: This act:

1. increases, from five to seven, the maximum number of commissioners who may sit on municipal housing authority boards of commissioners under certain circumstances;
2. expands the types of tenants eligible to (a) participate in a tenant commissioner election or (b) serve on the housing authority's board of commissioners;
3. provides a mechanism for housing authority tenants to petition for a tenant commissioner election;
4. establishes requirements for a housing authority's recognized jurisdiction-wide tenant organization with the authority to select a tenant commissioner in the absence of an election petition;
5. establishes procedures under which this organization selects a tenant commissioner; and
6. allows tenant commissioners to vote to establish or revise rents.

Under the act, "tenant of the authority" means someone who receives housing assistance in a housing program that the authority directly administers (e.g., Section 8 recipients renting from private landlords), as well as someone who lives in housing that the authority owns or manages. The act removes a requirement under which tenants qualify for commissioner only if they currently live or previously lived in authority housing for at least one year.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2011

BOARD OF COMMISSIONERS MEMBERSHIP

By law, a housing authority in a municipality other than a town (e.g., a city) operating more than 3,000 units must have a five-member board of commissioners comprised of municipal residents and may have up to two additional members. At least two must be tenant members. Under prior law, a housing authority in a town or other municipality with 3,000 or fewer units had to have a five-member board comprised of municipal residents, including at least one tenant member.

The act authorizes boards of commissioners in towns or in cities operating 3,000 or fewer units to have two more members if, after a tenant commissioner is elected or selected under the act's provisions, additional commissioners are

OLR PUBLIC ACT SUMMARY

necessary to achieve compliance with (1) federal rules specifying that a board must have at least one resident board member who directly receives federal assistance from the housing authority (i.e., no state assistance) or (2) state minority representation requirements (see BACKGROUND).

Table 1 shows the maximum number of commissioners in towns and other municipalities under prior law and the act; the appointing authority, if any; and the selection method.

Table 1: Board Membership under Prior Law and The Act

| <i>Type of Municipality</i> | <i>Prior Law</i> | <i>The Act</i> |
|---|---|--|
| Towns | Governing body appoints five commissioners, including at least one tenant commissioner. | Governing body appoints up to five members and may appoint two more as necessary to achieve compliance with federal rules and state law. If the board has five members, at least one must be a tenant commissioner who may be elected. If the board has seven members, at least two must be tenant commissioners who may be elected. |
| Other municipalities where housing authority operates 3,000 or fewer units | Chief executive officer appoints five commissioners, including at least one tenant commissioner. | Chief executive officer appoints up to five members and may appoint two more as necessary to achieve compliance with federal rules and state law. If the board has five members, at least one must be a tenant commissioner who may be elected. If the board has seven members, at least two must be tenant commissioners who may be elected. |
| Other municipalities where housing authority operates more than 3,000 units | Chief executive officer must appoint five members and may appoint at least two additional members. At least two must be tenant commissioners. | Chief executive officer appoints up to five members and may appoint two more. At least two must be tenant commissioners who may be elected. |

RECOGNIZED JURISDICTION-WIDE TENANT ORGANIZATION

The act codifies the process for recognizing a jurisdiction-wide tenant

organization with the power to elect or select tenants for the board of commissioners. By law, any tenant organization can (1) indicate its interest in receiving notice of a pending housing authority appointment and (2) suggest candidates for the position of tenant commissioner.

The act explicitly allows tenants to establish a recognized jurisdiction-wide tenant organization. The housing authority must recognize a jurisdiction-wide tenant organization if it determines that (1) the governing board members were elected through a jurisdiction-wide election and (2) with one exception, it satisfies the U.S. Department of Housing and Urban Development (HUD) regulations for elected jurisdiction-wide resident councils (see BACKGROUND). The exception allows tenants who receive state or federal assistance, not just those who receive federal assistance, to vote for, and be, jurisdiction-wide tenant organization members.

TENANT COMMISSIONER SELECTION

Under prior law, the municipality's chief executive officer or governing body (i.e., appointing authority) appointed housing authority commissioners, including the tenant commissioners. In doing so, they had to consider for appointment tenant commissioners suggested by any existing tenant organization.

The act (1) provides a mechanism for tenants to petition for a tenant commissioner election and (2) requires an existing jurisdiction-wide tenant organization to select the tenant commissioner in the absence of such a petition. If these provisions are not used, then the appointing authority selects the appointee or appointees.

Notice of Upcoming Vacancy

The act requires a housing authority to notify its tenants and any existing tenant organizations no later than 60 days before a tenant commissioner (1) appointment or (2) term expiration, whichever is sooner. The notice must include information on how tenants may petition for an election.

Election by Housing Authority Tenants

The act allows tenants to petition for an election up to 30 days after the housing authority notice. Ten percent of the tenants or 75, whichever is less, must sign the petition.

At least 30 days before an election, the housing authority must provide written notice to all housing authority tenants. It must use its best efforts (in agreement with the recognized jurisdiction-wide tenant organization, to the extent practicable) to arrange for an impartial entity to administer the election. In the event of a dispute over election procedures or results, the act specifies that anyone may petition the entity administering the election for a resolution.

Selection by Recognized Jurisdiction-Wide Tenant Organization

If tenants do not petition for an election, the recognized jurisdiction-wide tenant organization, if any, must select the tenant commissioner according to its

OLR PUBLIC ACT SUMMARY

adopted by-laws. Among other things, the method may include (1) a fair election by authority tenants or (2) selection by the organization's governing board.

Selection by Appointing Authority

If a tenant commissioner is not elected or chosen under the act's provisions within 90 days after the housing authority notice, then the appointing authority must make the appointment by considering tenants that any tenant organization suggests, as under prior law.

TENANT COMMISSIONER QUALIFICATIONS AND AUTHORITY

Prior law allowed only current or former housing authority tenants to qualify for tenant commissioner. It also set a length-of-residency requirement. Specifically, a tenant was eligible only if, for at least one year, he or she currently or previously resided in authority-owned or -managed housing. A tenant who previously resided in such housing had to be currently receiving housing assistance in a program that the authority administered (for example, individuals residing in privately owned units but whose rent the authority subsidized).

The act (1) extends eligibility to individuals who receive housing assistance from the authority but who never lived in authority-owned or -managed housing and (2) eliminates the length-of-residency requirement.

When a tenant commissioner is elected to a five-member board, in either a town or other municipality, the act authorizes the housing authority to set the qualifications for a second tenant commissioner to achieve compliance with (1) federal rules specifying that a board must have at least one resident board member who directly receives federal assistance from the housing authority (i.e., no state assistance) and (2) state minority representation requirements.

BACKGROUND

Minority Representation

The minority representation law restricts the number of members of one political party who can serve on certain state and municipal boards and commissions. Once candidates from the same political party fill the maximum allowable slots, the highest vote getters from any other party or parties, or unaffiliated candidates, fill the remaining positions. Table 2 provides the minority representation requirement.

Table 2: Minority Representation Requirement

| Total Board Membership | Maximum from One Party |
|-------------------------------|-------------------------------|
| 3 | 2 |
| 4 | 3 |
| 5 | 4 |
| 6 | 4 |
| 7 | 5 |
| 8 | 5 |
| 9 | 6 |

OLR PUBLIC ACT SUMMARY

| | |
|-------------|--------------------------------|
| More than 9 | Two-thirds of total membership |
|-------------|--------------------------------|

Federal Regulations

Direct Federal Assistance. Under federal regulations, the governing board of each public housing agency receiving federal assistance must have at least one eligible resident. An “eligible resident” is a person (1) who is directly assisted by a public housing agency, (2) whose name appears on the lease, and (3) who is age 18 or older.

Someone is “directly assisted” when he or she is a public housing resident or a recipient of housing assistance in the tenant-based Section 8 program. Direct assistance does not include any state-financed housing assistance or Section 8 project-based assistance (24 CFR 964.410 and 964.415).

Elected Jurisdiction-Wide Resident Councils. Under HUD regulations, resident councils must adhere to certain minimum standards regarding election procedures. Among other things, they must:

1. assure fair and frequent elections of resident council members (at least once every three years);
2. adopt and issue election and recall procedures in their by-laws;
3. include in their election procedures qualifications to run for office, frequency of elections, procedures for recall, and term limits if any; and
4. give residents at least 30 days notice for nomination and election.

A resident council must use an independent third-party to oversee an election or recall (24 CFR 964.105 and 964.130).

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